



MONTGOMERY COUNTY ETHICS COMMISSION

Public Meeting of June 17, 2015

Minutes

IN ATTENDANCE:

Commissioners:	Kenita V. Barrow, Chair Mark Greenblatt, Vice Chair Claudia Herbert Steve Rosen
Staff Members:	Robert W. Cobb, Chief Counsel Erin Chu, Program Manager
Members of the Public:	Rand Fishbein, Marietta Ethier, Ken Zajic, Victoria Korome, Josephine Ezemobi, Peter Drymalski, Aimee Wineger, Nicole Williams, Steven Muse, V. McBeth, Kristen Latham, Walter Wilson, Grace Kingon, Ngozi Korie, Adjo Damado, Oseremen Okojie

Item 1. The meeting was called to order at 7:15 p.m.

Item 2. The minutes from the 5/19/15 meeting were approved with a minor edit.

Item 3. Mr. Cobb introduced the topic of a request for an advisory opinion and related issues relating to the operations of Commission on Common Ownership (CCOC) hearing panels. As background, Cobb discussed how the Ethics Commission had in 2014 considered the CCOC practice of appointing attorneys as CCOC hearing panel chairs where those attorneys had represented parties before other CCOC hearing panels. On

April 10, 2014, the Commission issued guidance that the CCOC's practice was not consistent with the County's ethics law. Cobb indicated that the CCOC, through its Chair, had recently approached the Commission seeking relief from the Commission's guidance. In particular, the CCOC had sought an advisory opinion from the Commission on whether, among other things, obtaining a waiver of conflicts of interest from parties appearing before a hearing panel with a chair that has been otherwise disqualified by the Commission's guidance would resolve the conflict. Cobb indicated that he had suggested to the CCOC Chair the reformation of the request for an advisory opinion to a request for an advisory opinion and waiver and suggested further reformation of the idea proposed by the CCOC Chair to one appropriate for consideration by the Commission. Cobb had suggested that the reformation might include a consent (a draft form of which was provided by Cobb) that would be necessary for parties to sign in connection with CCOC hearings, were the Commission willing to issue a waiver. (E.g. in theory, the Commission could issue a class waiver upon the condition that in all cases all parties to matters signed the consent form). Cobb stated that he made the suggestion without any direction from the Commission and for the purpose of having a more developed idea to present to the Commission for it to consider. Cobb's suggestion was to facilitate a conversation to see if there is a path forward that meets both the needs of the CCOC and the concerns of the Ethics Commission. Cobb indicated that as a technical matter, the CCOC had not presented a formal request for a waiver to the Ethics Commission in accordance with Public Ethics Law requirements. That would be a prerequisite for formal consideration by the Commission on whether to issue a waiver.

After the introduction by Cobb, Ms. Barrow invited members of the public to address the Commission concerning the CCOC issue. Several people addressed themselves to the Commission concerning the issues. Mr. Fishbein, Chair of the CCOC began the discussion by describing many aspects of the operations of the CCOC panels and he communicated the commitment of the CCOC to the objective and unbiased resolution of disputes before CCOC panels. He described the extent of the CCOC's reliance on the attorney/panel chairs in the CCOC panels and made several other points about the positive work of the attorney/panel chairs.

A discussion ensued in which several CCOC members and staff participated, including Mr. Drymalski of the Office of Consumer Protection, Mr. Wilson of the County Attorney's Office, and Ms. Williams, an attorney/panel chair.

The Ethics Commissioners asked several questions about operations of the CCOC panels which were answered by CCOC members and staff, including Messrs. Drymalski and Wilson.

Two members of the public described their experiences before a CCOC panel and how they believed the CCOC panel involved with their matter did not operate in a manner that was fair to them. One of them expressed that the Ethics Commission's guidance from April 2014 had helped to level the playing field.

Ethics Commission Chair Barrow indicated that the role of the Ethics Commission was to uphold the Public Ethics Law. Whether the CCOC can find a path forward through the presentation of a request for a waiver that meets the standards for issuance contained in the public ethics law will depend on what they can present.

The discussion of the CCOC matter finished and all persons attending the meeting other than the Ethics Commissioners and staff left the meeting.

At 8:47, after a motion and seconding of the motion with a unanimous vote of the Commission, the meeting went into closed session pursuant to General Provisions Article § 3-305(b) to consult with counsel to the Commission about the requirements of the Public Ethics Law and, also, to discuss matters not covered by the Open Meetings Act as they involve an executive function. See 64 Op. Att'y Gen. 162, 167 n.3 (1979)

The Public Meeting reopened at 9:25. Mr. Greenblatt left the meeting at that time.

Item 4: The Commission discussed draft comments that had been prepared by Cobb relating to proposed bill 39-14 and changes to the proposed bill that were being recommended by Bob Drummer, Senior Legislative Counsel. The Commission reviewed the comments and directed Cobb to convey them to Mr. Drummer, with the edits prescribed by the Commission. Before doing so, Mr. Cobb is to ascertain whether these comments are intended to be formal comments that will be presented to the Government Operations Committee or comments simply for purpose of assisting Mr. Drummer improve the Bill that is presented to the Council.

The meeting adjourned at 9:57

Respectfully Submitted,

A handwritten signature in black ink that reads "Robert W. Cobb". The signature is written in a cursive, flowing style.

Robert W. Cobb